

### **Remarks**

Claims 1-21 were previously pending. Claims 1 and 16-18 are currently amended and claim 15 has been canceled. Reconsideration of presently pending claims 1-14 and 16-21 is respectfully requested in light of the above amendments and the following remarks.

### **Oath/Declaration**

Supplemental declarations are attached which comply with the citizenship requirement of 37 CFR 1.67(a), as required by the Office Action.

### **Claim Objection**

Claim 1 has been amended to further specify the term “shaft” as required by the Office Action. Paragraph [0027] discloses that “[d]issection tool 50 includes an elongated shaft 52...”. Claims 1 and 16-18 have been amended to more particularly claim a dissection tool with an elongated shaft 52.

### **Rejections under 35 U.S.C. § 102**

Claims 1-12, 15, 17 and 18 were rejected under 35 U.S.C. §102(b) as being anticipated by Vaughn et al. (US Patent No. 5,569,256).

As set forth at MPEP §2131, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” With respect to the claims as herein amended, this rejection is respectfully traversed.

Currently amended claim 1 requires:

A surgical instrument for the dissection of bone or other tissue having a motor with a power output, the surgical instrument comprising:

a dissection tool having an elongated shaft with a dissection area disposed adjacent a distal end and a coupling area disposed adjacent a proximal end;

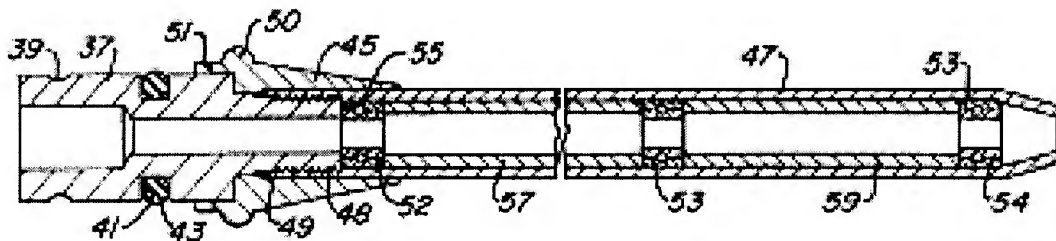
a coupling assembly configured for coupling the power output to said coupling area of said tool; and

an angled attachment tube having a proximal portion for coupling to said coupling assembly and an internal passage extending from said proximal portion to an opposite distal portion, the attachment tube positioned along at least a portion of said elongated shaft and substantially supporting a portion of said elongated shaft disposed adjacent said dissection area, *said internal passage including a longitudinal curved portion disposed between said proximal portion and said distal portion, said angled attachment tube supporting said elongated shaft in a longitudinally curved configuration corresponding to said curved portion,*

wherein said attachment tube is movably coupled to said coupling assembly.

(Emphasis added)

The Office Action states that Vaughn discloses “an angled attachment tube (Fig. 3, ref. 47) positioned along at least a portion of said shaft and substantially supporting a portion of said shaft disposed adjacent said dissection area...”. (Office action, p. 3). The Office Action further states that “the angled attachment tube includes a curved portion (Fig. 3, ref. 47, angled portion near ref. 53).” However, Vaughn clearly teaches a straight extension tube. (Col. 3, lines 37-39 and Fig. 3, ref. 47).



Vaughn, Fig. 3

As clearly shown in Fig. 3 above, the extension tube 47 of Vaughn is straight except for a taper shown at the distal end. The intermediate portion of extension tube 47 is straight and generally parallel with central axis 23 and has a straight internal bore. (see Fig 1 and Col. 3, lines 6-9 and 38-39). Therefore, Vaughn does not include the limitation of “said internal passage including a longitudinal curved portion disposed between said proximal portion and said distal portion, said angled attachment tube supporting said elongated shaft in a longitudinally curved configuration corresponding to said curved portion,” as required by Applicants’ amended claim 1.

Therefore, it is respectfully submitted that the §102(b) rejection of claim 1 is not supported by the reference, and should be withdrawn. Claims 2-12, 17 and 18 are allowable as well since they depend from and further limit Claim 1. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 1-12, 17 and 18.

### **Rejections under 35 U.S.C. § 103**

Claims 16 and 19-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vaughn and claims 13 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vaughn in view of Mongeon et al. (US Patent No. 4,728,876). These rejections are respectfully traversed. As stated above, Vaughn does not teach all of the limitations of claim 1, neither does the combination of Vaughn and Mongeon cure this deficiency. Claims 13, 14, 16 and 19-21 depend from and further limit independent claim 1 and are therefore patentable over the cited references.

**Conclusion**

A notice of allowance of claims 1-14 and 16-21 is respectfully requested. The Examiner is invited to telephone the undersigned if further assistance is necessary. Deposit Account Number 08-1394 can be used for any over payments or under payments.

Respectfully submitted,



J. Andrew Lowes

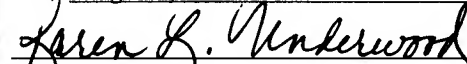
Registration No. 40,706

Dated: 8/6/07

HAYNES AND BOONE, LLP  
901 Main Street, Suite 3100  
Dallas, Texas 75202-3789  
Telephone: 972-680-7557  
IP Facsimile No. 214-200-0853

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via EFS-Web on the following date.

Date: August 6, 2007



Karen L. Underwood